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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/673,738	10/20/2000	Fumio Takahashi	Q61378	3763

7590

06/26/2002

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EXAMINER

MAKI, STEVEN D

ART UNIT

PAPER NUMBER

1733

DATE MAILED: 06/26/2002

10

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application N . 09/673,738	Applicant(s) TAKAHASHI, FUMIO	
	Examiner Steven D. Maki	Art Unit 1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-22 is/are pending in the application.
- 4a) Of the above claim(s) 1 and 3-7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>7</u> . | 6) <input type="checkbox"/> Other: _____ |

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1) Figures 10, 19, 22, 23, 24 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2) The disclosure is objected to because of the following informalities: The claims are described in the specification. See for example pages 4-9.

Appropriate correction is required.

3) The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4) Claims 8-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 line 6 ambiguously refers to "the block" (which one?) and "the end edge" (which one?). In claim 8 line 6, it is suggested to change "the block in the vicinity of the end edge" to --each block in the vicinity of an end edge--.

In claim 14, "the dimension" (both occurrences) should be changed to --a dimension-- to avoid a minor antecedent basis problem.

In claim 16, "the dimension" should be changed to --a dimension-- to avoid a minor antecedent basis problem.

In claim 17, "the dimension" (both occurrences) should be changed to --a dimension-- to avoid a minor antecedent basis problem.

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In claim 18, "the dimension" (both occurrences) should be changed to --a dimension-- to avoid a minor antecedent basis problem.

5) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Marriott

7) **Claims 8-20 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Marriott (US 6386253).**

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

The claims block reads on the block shown in figures 1, 2, 3, 5. The claimed protuberant portion reads on the round topped edge 5 which can have a width and height of 0.7 mm. See col. 2 lines 37-38.

8) Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marriott (US 6386253).

As to claims 21 and 22, it would have been obvious to provide the round top ridge of Marriott such that the round top is oval and the angle thereby gradually increases from the top of the ridge to the sidewall of the block since (a) Marriott suggests using a round (circular) top for the ridge and (b) oval and circular are taken as well known / conventional alternative round shapes. Marriott contemplates different cross sections since at col. 2 lines 39-40 Marriott teaches that the cross section of the edge ridge may take any form.

Japan '810

9) Claims 8-11, 14 and 16-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Japan '810 (JP 8-332810).

The claimed block having the claimed protuberant portion reads on the block shown in figure 6a or the block shown in figure 6c. The illustrated block in figure 6a, 6c has an uneven top surface comprising relatively small ribs having a round top. Claim 8

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fails to exclude a multitude of relatively small ribs (protuberant portions) arranged over the entire top surface of the block as shown in figures 6a or 6c of Japan '810.

10) Claims 8-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japan '810 (JP 8-332810).

Claims 8-11, 14 and 16-19 are considered to be anticipated by Japan '810. In any event: It would have been obvious to provide each relatively small rib on the surface of the block of Japan '810 with a "round top" since (a) Japan '810 suggests providing relatively small ribs on the surface of the block to improve traction performance and (b) Japan '111, also directed to modifying the surface a tread element to increase traction, clearly suggests using "round top projections" (figure 3). As to claims 12-19, the claimed dimensions would have been obvious since (a) Japan '810 suggests providing relatively small ribs on the surface of the block to improve traction performance and (b) Japan '111 suggests using a size of 30 μm – 1 mm for projections on the surface of a tread element in order to increase traction.

Kamegawa et al

11) Claims 8-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamegawa et al (US 5,503,208) in view of Europe '403 (EP 875403).

Kamegawa et al discloses blocks defined by circumferential grooves and lateral grooves wherein each block has a protuberant portion which extends around the entire periphery of the block. See for example figures 6-9. As shown in figures 7-9, the height of the protuberant portion decreases toward the central region of the block. Kamegawa et al uses the protuberant portion to equalize ground contact pressure over the whole of

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the block. Kamegawa et al does not recite decreasing the height of the block toward the edges of the block. However, it would have been obvious to one of ordinary skill in the art to chamfer the edges of the blocks of Kamegawa et al so as to define the claimed protuberant portion in order to further improve uniformity of ground contact pressure since Europe '403 suggests chamfering the edges of blocks so as to uniformize ground contact pressure and thereby enhance friction force.

12) Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamegawa et al (US 5,503,208) in view of Europe '403 (EP 875403) as applied above and further in view of Miyazaki (US 6138728).

As to claims 21 and 22, it would have been obvious to use an increasing angle with the chamfer since Miyazaki suggests shaping a chamfer such that it becomes gradually steeper toward the groove bottom (figures 8-9).

Remarks

13) Applicant's election without traverse of Group II claims 8-22 in Paper No. 9 is acknowledged.

The references listed on the PCT search report dated 5-23-00 have been considered.

14) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is 703-308-2068. The examiner can normally be reached on Mon. - Fri. 7:30 AM - 4:00 PM.

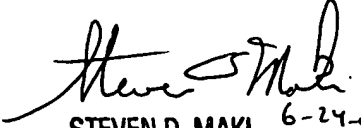
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Ball can be reached on (703) 308-2058. The fax phone numbers

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for the organization where this application or proceeding is assigned are (703) 305-7718 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Steven D. Maki
June 24, 2002


STEVEN D. MAKI 6-24-02
PRIMARY EXAMINER
~~GROUP 1300~~
AU 1733